IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7881 OF 2005

Shri Digambar Ramchandra Chaudhari & Ors. .. Petitioners

Vs.

Shri Eknath Pandharinath Nandgude & Anr. .. Respondents

Mr.S.V.Pitre for the petitioners

Mr.J.S.Deo for the respondents

CORAM : S.U.KAMDAR, J
DATED : 24TH NOVEMBER, 2005

P.C.:

1. The impugned order dt.26.07.05 challenged in the present petition is an interlocutory order granting injunction in favour of the petitioner no.1 by reversing the order of the trial court. By doing so, the appeal court has considered the dispute between the parties pertaining to the land and the area which is in possession of the respondent who is the plaintiff. The learned appellate authority in para 11 and 12 of the said judgment has also considered and has found that the

plaintiff is in possession and has come to the opinion that the plaintiffs possession should be protected till the disposal of the said suit. It has also given prima facie finding that the defendants/petitioners have sought to encroach upon the portion of the land and in that light of the matter it is necessary that injunction order should be granted.

2. In my opinion, such an order of granting injunction on the basis of material produced before the appeal court cannot be treated as perverse and / or error apparent on the face of the record. In that light of the matter, petition fails and the same is dismissed accordingly.